

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF NEW MEXICO**

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COLT & JOE TRUCKING, LLC,

Plaintiff,

v.

Case No. 1:24-cv-00391 KWR/GBW

U.S. DEPARTMENT OF LABOR, *et al.*,

Defendants.

**ORDER STRIKING AMICUS BRIEF**

THIS MATTER is before the Court on a Brief of *Amici Curiae* Dr. Liya Palagashvili. Doc. 24. For the reasons stated below, the Court **STRIKES** the amicus.

Normally, in federal district court proceedings *amici* briefs are not filed, and they are not expressly provided for in Federal Rules of Civil Procedure. Here, however, Plaintiff has filed an Administrative Procedures Act claim. In the Tenth Circuit, an APA claim is governed by the Federal Rules of Appellate Procedure. *Olenhouse v. Commodity Credit Corp.*, 42 F.3d 1560, 1580 (10th Cir. 1994).

“Federal courts have discretion in allowing participation as *amicus curiae*.” *New Mexico Oncology & Hematology Consultants, Ltd. v. Presbyterian Healthcare Servs.*, 994 F.3d 1166, 1175 (10th Cir. 2021). Assuming the appellate rules apply here, Dr. Palagashvili has not satisfied the requirements under the rules. Federal Rule of Appellate Procedure 29 governs amicus filings. FRAP 29(a). Generally, a private party (as opposed to the government) must file a motion for leave to file an amicus, stating the movant’s interest, the reason why an amicus brief is desirable and why the matters asserted are relevant to the disposition of the case. FRAP 29(a)(2). Here, Dr.

Palagashvili did not file a motion for leave of the court. Moreover, the brief does not satisfy the above standard. The amicus here does not explain in its section titled “Statement of Interest” why the matters asserted in the brief are relevant to the disposition of the case. Alternatively, the brief does not recite that all parties consent to the filing of the amicus. FRAP 29(a)(2).

Moreover, the Court notes that the parties have already stipulated to a briefing schedule and have already commenced briefing. *See* Doc. 15. Dr. Palagashvili has not filed a proposed motion jointly with the parties setting forth whether and how the briefing schedule should be modified to give the parties an opportunity to respond to the *amicus* brief.

The Court, in its discretion, declines to consider the filed amicus. Therefore, the Court **STRIKES** Dr. Palagashvili’s amicus (Doc. 24).

**IT IS SO ORDERED.**

/S/  
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KEA W. RIGGS  
UNITED STATES DISTRICT JUDGE